

as in the present invention. In fact, McClain calls for use of the apparatus disclosed therein **at the beach** (column 1, line 44; emphasis added), thereby teaching directly away from the use of the device disclosed therein for the application of human skin artificial tanning compositions, it being understood that the application of human skin artificial tanning compositions at the beach is incongruous.

Moreover, McClain is careful to disclose that the apparatus is designed to enclose the user's body **except for the head** (column 1, lines 48-50; emphasis added). As is well known, suntanning lotions and sun blocking lotions are highly viscous substances. Suntanning lotions and sun blocking lotions are formulated to have high viscosity to prevent running when applied to human skin. Thus, the high viscosity of suntanning lotions and sun blocking lotions assists in assuring uniform coverage and lack of streaking when persons to whom such lotions have been applied are tanned by UV radiation, either natural or artificial. It is apparent that the viscosity of such suntanning lotions and sun blocking lotions is considerably greater than that of the solutions which are utilized in the practice of the present invention. It is submitted that when the viscous suntanning lotions and sun blocking lotions disclosed by McClain are atomized utilizing nozzles of the type employed in oil burners, as disclosed in McClain, the resulting droplets will be quite large when compared with the spray which characterizes the practice of the current invention. Indeed, considering the viscous nature of the materials utilized and the resulting large droplet size, applying the subject matter of McClain to the head, with the likelihood of McClain's sun tanning or sun blocking lotion being inhaled, would have been viewed as highly dangerous considering the risks of suffocation.

Even assuming that the person being coated held his or her breath during the coating procedure, the viscous nature of the material being applied and the large droplet size resulting from the operation of McClain would be very irritating to the person being coated if applied to the eyes,

nose, ears, and mouth. Thus, McClain teaches directly away from, and certainly does not disclose or fairly suggest, the enclosure of the head of the person being coated.

Further, because McClain does not provide for the application of suntan and sun block lotion to the head and face, the user must apply such lotion manually, even though McClain clearly states that manual application produces uneven results. To the contrary, the present invention is specifically designed to apply artificial tanning compositions to the entire body, including the head.

Josefsson discloses a paint spray booth for painting vehicle bodies and apparatus for circulating and filtering paint over spray. Considering the circulating aspect Josefsson, a circulating apparatus is utilized for the purpose of circulating/recirculating air to or away from the paint spray booth. Nowhere in Josefsson is it contemplated that paint over spray is recirculated back to the booth for reuse. The purpose of circulating/recirculating air in Josefsson is for ventilation only. Given the flammable and poisonous nature of paint over spray, it is not desirable to circulate/recirculate this material back into the paint spray booth. To the contrary, in the present invention, it is contemplated that excess human skin artificial tanning compositions can be recirculated for reuse if so desired.

As to Claim 2, it is set forth that the subject Claim is patentable over the prior art of record for the reasons set forth above in connection with Claims 1 and 9. Additionally, the inventor herein points out that paint spray has been filtered for decades because paint is flammable, poisonous, and difficult to remove from adjacent surfaces. However, the mere fact that paint over spray has been filtered for many years in no way renders obvious the inventive step of filtering a spray comprising a material such as dihydroxyacetone (DHA), which is non-flammable, non-poisonous, and more easily removed from adjacent surfaces. The very reason for filtering human skin self tanning agents contemplates reuse. Considering Josefsson, the exact opposite is true—harmful paint over spray is filtered for the purpose of removing it and properly disposing of it. There is absolutely no evidence

even suggesting that prior to the present invention anyone ever thought of filtering human skin self tanning agents. Further, there is no evidence that those skilled in the self tanning art would know of Josefsson, or that Josefsson would be of any benefit in filtering human skin self tanning compositions. Given that the filtering apparatus disclosed in Josefsson is in no way similar to that employed by the present invention, and appreciating the inherent differences between paint over spray and the materials contemplated by the present invention, one must surmise that the filtering apparatus of Josefsson would not be capable of filtering human skin artificial tanning compositions.

As to Claim 3, it is set forth that the subject Claim is patentable over the prior art of record for the reasons set forth above in connection with Claims 1, 2, and 9.

As to Claims 5-7, it is set forth that the subject Claims are patentable over the prior art of record for the reasons set forth above in connection with Claims 1, 2, and 9.

Additionally, the rejection of Claims 4 and 8 under 35 U.S.C. § 103(a) as unpatentable over U.S. 1,982,509 (Frank) in view of McClain and Josefsson is respectfully traversed.


With regard to Claim 4, it is set forth that the subject Claim is patentable over the prior art of record for the reasons set forth above in connection with Claims 1, 2, and 9. Further, Frank adds nothing whatsoever to either McClain or Josefsson insofar as any possible obviousness of the subject matter of the present invention is concerned. Frank discloses an apparatus for applying a treatment media comprising sanitary, hygienic, medical, and/or cosmetic treatments. Nothing in Frank even remotely discloses the application of human skin artificial tanning compositions. In this regard, it is pointed out that human skin artificial tanning compositions in all probability did not even exist at the time Frank was issued. Therefore, Claim 4 is patentable.

As to Claim 8, it is set forth that the subject Claim is patentable over the prior art of record for the reasons set forth above in connection with Claims 1, 2, 4, and 9.

In conclusion, and considering all of the above, it is respectfully asserted that the combination of references relied upon by the Examiner in the Office Action is improper, and that the rejections of Claims 1-9 are likewise improper. Likewise, it is respectfully submitted that the present Remarks comprise a sincere attempt to advance the prosecution of the current reissue proceedings. It is additionally respectfully submitted that all of the claims presented are in condition for favorable action which is respectfully requested.

Respectfully submitted,

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